

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

RICHARD CUTWRIGHT,

Plaintiff,

VS.

RICKEY GREEN,

Defendants

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CIVIL ACTION FILE NO.
1: 03-CV-163 (WLS)

RECOMMENDATION

Defendant has filed a motion to dismiss for plaintiff's failure to prosecute (doc 28). The undersigned notified plaintiff of the filing of the motion; however, plaintiff has failed to file any response to the motion.

Plaintiff filed the current action on November 11, 2003. Defendants filed a motion for summary judgment on August 13, 2004. The undersigned issued a Report and Recommendation on February 9, 2005, to grant in part and deny in part defendants' motion, making defendant Green the only remaining defendant. The Recommendation was adopted on March 30, 2005.

The last item noted in the record filed by plaintiff was a notice of change of address dated December 16, 2004, when he was apparently released from the prison system. Plaintiff has failed to conduct any discovery in this action, or otherwise prosecute the same.

By an order dated December 17, 2003, the undersigned advised plaintiff that he should diligently prosecute this action or face its dismissal under Federal Rules of Civil Procedure Rule 41(b).

After having afforded plaintiff an opportunity to respond to defendant's motion and to show

cause why this action should not be dismissed, the undersigned finds a clear record of delay and a wilful failure of the plaintiff to take meaningful action to prosecute this action. It is the further finding of the undersigned that lesser sanctions will not suffice; therefore, it is the RECOMMENDATION of the undersigned that this action be **DISMISSED** with prejudice. Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to this recommendation with the Honorable W. Louis Sands, United States District Judge, WITHIN TEN (10) DAYS of receipt thereof.

SO RECOMMENDED, this 9th day of May, 2006.

//S Richard L. Hodge
RICHARD L. HODGE
UNITED STATES MAGISTRATE JUDGE